

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

- against -

MEMORANDUM AND ORDER

MARCUS ROBERSON,

19 Cr. 914 (NRB)

Defendant.

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NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

Essentially utilizing a form letter, see ECF No. 13, defendant has sought release on bail because of the COVID-19 virus and its potential impact on his health and interference with direct contact with counsel. Defendant's application proceeds on an erroneous premise, namely, that defendant's lifelong ties to New York "would be sufficient under normal circumstances to overcome the presumption of pre-trial detention." ECF No. 13 at 3.

To the contrary, defendant's extensive and virtually continuous criminal history dating back to 2007, involving both narcotics, firearms possession with discharge (including a guilty plea to assault in the first degree with intent to cause serious injury for which he received a six year sentence), and a record of repeated and frequent violations of release conditions and parole by re-arrest, make him, with or without the presumption applicable to his current indictment, a danger to the community and a risk of flight. The defendant's history of convictions, violations of

court orders, and arrests are set out in detail in the Government's letter in opposition. See ECF No. 14 at 1-6.

It is also noteworthy that defendant was arrested in this case for possession of narcotics with intent to distribute while the subject of an outstanding parole violation warrant, issued on September 11, 2019, just six months following his release from custody on the assault charge noted above. Indeed, the open warrant makes him subject to re-arrest by state authorities.

Finally, there is no suggestion in defendant's submission that by virtue of a pre-existing health condition he faces an unusual risk from the coronavirus.

In sum, defendant would be detained as both a danger to the community and a risk of flight under normal circumstances and has failed to demonstrate why a different result should obtain under these unusual circumstances.

This application has been addressed by Memorandum and Order given the comprehensive written submissions, the extremely limited access to in-court proceedings currently, and the Court's judgment that the application did not pose a close question.

SO ORDERED.

Dated: New York, New York
March 26, 2020


NAOMI REICE BUCHWALD
United States District Judge